

## LEGISLATIVE BILL 724

Approved by the Governor May 13, 2003

Introduced by Jensen, 20; Thompson, 14

AN ACT relating to public health and welfare; to amend section 83-1079, Reissue Revised Statutes of Nebraska; to adopt the Nebraska Behavioral Health Reform Act; to change provisions relating to release of certain committed persons; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 9 of this act shall be known and may be cited as the Nebraska Behavioral Health Reform Act.

Sec. 2. The purpose of the Nebraska Behavioral Health Reform Act is to state legislative intent for reform of the behavioral health system and for a substantive recodification of statutes relating to the funding and delivery of behavioral health services in the State of Nebraska. Such statutes include, but are not limited to: (1) The Nebraska Comprehensive Community Mental Health Services Act; (2) the Nebraska Mental Health Commitment Act; (3) the Alcoholism, Drug Abuse, and Addiction Services Act; (4) the Rehabilitation and Support Mental Health Services Incentive Act; (5) sections 71-5016 to 71-5040; (6) sections 71-5053 to 71-5057; and (7) sections 83-305 to 83-357.

Sec. 3. For purposes of the Nebraska Behavioral Health Reform Act:

(1) Behavioral health system means the statewide array of behavioral health services provided by the regional centers or by any other public or private facility or practitioner;

(2) Behavioral health disorder means mental illness or alcoholism, drug abuse, or other addictive disorder;

(3) Behavioral health region means a mental health region described in subdivision (6) of section 71-5002;

(4) Behavioral health services means services provided for the prevention, diagnosis, and treatment of behavioral health disorders;

(5) County regional governance system means the system for the funding and delivery of community-based behavioral health services in the behavioral health regions, including the regional governing boards established pursuant to section 71-5004, the behavioral health programs and services funded and administered by such boards, and the program administrators appointed by such boards;

(6) Mental health board means a mental health board created pursuant to section 83-1017;

(7) Nebraska Health and Human Services System means the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support; and

(8) Regional center means one of the state hospitals for the mentally ill designated in section 83-305.

Sec. 4. The Legislature finds that:

(1) The separate and distinct funding and administrative mechanisms of the regional centers and the county regional governance system present significant barriers to statewide coordination of the behavioral health system;

(2) The number of inpatients at the regional centers is significantly less than the originally designed capacity of such centers and many regional center buildings are uninhabitable or require significant expenditures of state funds for maintenance and renovation;

(3) The size and scope of the administrative bureaucracy in each behavioral health region has significantly expanded since passage of the Nebraska Comprehensive Community Mental Health Services Act and each regional governing board both provides behavioral health services and administers state and other funds for the provision of such services;

(4) The availability of community-based behavioral health services in the State of Nebraska is inadequate to meet the need for such services; and

(5) Many persons with behavioral health disorders are admitted for inpatient treatment when outpatient treatment would be a clinically appropriate and less restrictive treatment alternative for such persons, mental health board commitments lack uniformity statewide, and persons are frequently retained in emergency protective custody after being committed for treatment by a mental health board and prior to the commencement of such treatment.

Sec. 5. It is the intent of the Legislature that statutes relating to the regional centers be revised and recodified to:

(1) Decrease reliance on the regional centers for the inpatient treatment of behavioral health disorders and consolidate the inpatient treatment currently provided at such centers, which may include the designation of one inpatient regional center facility with a single administrative and clinical staff for all regional center operations;

(2) Reinvest revenue from the reduction or elimination of inpatient regional center services into the statewide development of community-based behavioral health services; and

(3) Provide for more accountable and cost-effective utilization of professional staff at the regional centers, consistent with the clinical needs of patients at such centers.

Sec. 6. It is the intent of the Legislature that statutes relating to the county regional governance system be revised and recodified to:

(1) Change membership of the regional governing boards to include elected officials and other persons with a broad range of interests and expertise in the provision of behavioral health services in the behavioral health region and change the method for the appointment of such members to such boards;

(2) Limit and redefine the powers and duties of the regional governing boards, while preserving local control to the greatest possible extent in each behavioral health region;

(3) Eliminate the county matching funds requirement in sections 71-5009 and 71-5027 but continue to require local funding for behavioral health services provided in each behavioral health region, including funding from counties and other public and private sources; and

(4) Restrict or prohibit the regional governing boards from directly providing behavioral health services in the behavioral health region without state approval.

Sec. 7. It is the intent of the Legislature that statutes relating to the statewide administration and funding of the behavioral health system be revised and recodified to:

(1) Reduce the overall growth of state expenditures for the system and maximize access to federal medicaid funding for community-based behavioral health services;

(2) Provide additional support and guidance for the statewide development of community-based behavioral health services;

(3) Require that all public funding for the behavioral health system, including community-based funding, regional center funding, and medicaid funding, be integrated within the Nebraska Health and Human Services System to provide for the most efficient and effective transition of persons to the least costly and least restrictive treatment environment possible consistent with the clinical needs of such persons; and

(4) Restructure the statewide administration of the behavioral health system and require the appointment of a chief behavioral health officer within the Nebraska Health and Human Services System.

Sec. 8. It is the intent of the Legislature that the Nebraska Mental Health Commitment Act be revised and recodified to:

(1) Limit the number of mental health boards and change provisions relating to such boards;

(2) Permit physicians and psychologists to initiate emergency protective custody procedures;

(3) Encourage outpatient community-based commitments, avoid more costly and inappropriate inpatient commitments, and facilitate the transition of persons from the regional centers to less restrictive community-based treatment alternatives consistent with the clinical needs of such persons; and

(4) Clarify the authority and obligation of counties relating to the emergency protective custody of persons after commitment by a mental health board and prior to the admission of such persons for treatment pursuant to such commitment.

Sec. 9. The chairperson of the Health and Human Services Committee of the Legislature shall prepare and introduce legislation or amendments to legislation in the Ninety-eighth Legislature, Second Session, to implement sections 5 to 8 of this act.

Sec. 10. Section 83-1079, Reissue Revised Statutes of Nebraska, is amended to read:

83-1079. A mental health board shall be notified in writing ~~at least seven days in advance~~ of the release by the treatment facility of any individual committed by the mental health board. The mental health board shall, upon the motion of the county attorney, or may upon its own motion, conduct a hearing to determine whether the individual is a mentally ill

dangerous person, as defined by the Nebraska Mental Health Commitment Act, and consequently not a proper subject for release. Such hearing shall be conducted in accordance with the procedures established for a hearing in sections 83-312, 83-339 to 83-340.01, 83-380.01, 83-1011, 83-1016 to 83-1018, 83-1024, 83-1026 to 83-1037, 83-1044, 83-1048, 83-1049, 83-1053, 83-1056, 83-1058 to 83-1060, 83-1079, and 83-1080. The subject of such hearing shall be accorded all rights guaranteed to the subject of a petition under the Nebraska Mental Health Commitment Act. ~~If the board determines that an individual is still mentally ill and dangerous, that individual shall not be released from the treatment facility.~~

Sec. 11. Original section 83-1079, Reissue Revised Statutes of Nebraska, is repealed.